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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,497	02/07/2001	Rainer Graumann	P00,1994	8814

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

EXAMINER

MEI, XU

ART UNIT	PAPER NUMBER
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2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/778,497

Applicant(s)

GRAUMANN

Examiner

Xu Mei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is responsive to the applicant's arguments dated 01/25/2007.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-5 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantine (US-2,165,124) in view of Otero (US-2,149,067).

Regarding Claim 1, Ballantine discloses a fabric garment having a pocket therein and having a microphone (M) removable contained in the pocket of the garment (see Figs. 1-3, adjustable elastic fabric garment element B having fabric cover for microphone M that is part of the neckband; Fig. 2 shows the fabric garment is having pocket for casing the microphone, the microphone being pocketed inside the fabric garment). It is inherent that the microphone is removably contained, as indeed, any two members contained together are capable of being removed (see also col. 2, lines 40-50). What does Ballantine not teach is the fabric garment is a surgical mask. However, fabric surgical mask is just another old and well known type of fabric garment,

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and Otero discloses the old and well known fabric surgical mask (Figs. 1, 3-4) for used by surgeons, assistants and nurses during surgical and other treatment of patients. It would have been obvious to one of ordinary skill in the art to combines the teachings of Ballantine and Otero by including removable microphone for an old and well known fabric surgical mask in order to provide acoustic signals receiving and recording function in a medical environment by preserved valuable treatment information from surgeons, assistants and nurses during surgical and other treatment of patients.

For what's called for in claim 3, see Fig. 3 and col. 1, lines 39-42.

Regarding Claim 4, Ballantine further discloses a contact electrically connected to the microphone disposed at an exterior surface of the fabric garment, and a cable having a mating contact, engageable with said contact, for transmitting signals from said microphone to a remote location (the casting member is being removably engaged to exterior of the neckband as shown in Fig. 2 and have wire connected to microphone).

Regarding Claim 5, Ballantine further disclose a cable connected to said microphone for transmitting signal from said microphone to a remote location, said fabric garment having an interior and an exterior and said microphone being disposed in the interior of said fabric garment, and said fabric garment having an opening through which said cable proceeds from said interior of said fabric garment to said exterior of said garment (see Fig. 2).

Regarding Claim 2, Otero discloses surgeons, assistants and nurses during surgical and other treatment of patients, are using the surgical mask i.e., worn in a medical environment.

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4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Ballantine and Otero as discussed in claim 1 above, further in view of Ingalls (US-4,607,383).

Regarding claim 7, the combinations of Ballantine and Otero does not disclose that the microphone surgical mask as discussed in claim 1 above including an electrical filter circuit for suppressing disturbing signals. However, electrical filter circuit for suppressing disturbing signal (noise) is old and well know in the art, and Ingalls discloses a fabric garment neckband microphone having and electrical filter circuit (Fig. 8) for suppressing disturbing signal (noise), see col. 4, line 67-col. 5, line 46. It would have been obvious to one of ordinary skill in the art to modify the microphone surgical mask of Ballantine and Otero with a electrical filter circuit for suppressing disturbing noise signal as taught by Ingalls in order to suppress the unwanted noise signal to produce a more intelligible voice signal receive by microphone.

5. Claims 6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Ballantine and Otero as discussed in claim 1 above, further in view of Wang et al (US-5,757,929, hereafter, Wang).

Regarding claims 6 and 8, the combinations of Ballantine and Otero disclosed the microphone surgical mask as discussed in claim 1 above, but not clearly showing wireless transmitting of the received microphone signal as claimed. Wang (see Figs. 1-2) discloses a wireless transmitter electrically connected to the microphone for

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wirelessly transmitting signals generated by said microphone to a remote location (transmitter 54) in a communication system. It would have been obvious to one of ordinary skill in the art to modify the microphone surgical mask of Ballantine and Otero with a wireless transmitter as taught by Wang in order to provide wireless signals transmission for the signal generated by the microphone to a desired remote location. As for claim 8, Wang discloses the communication system having signal transmitting arrangement (transmitter 54) for transmitting signal, corresponding to voice signals picket up by said microphone, and a receiving unit (remote transceiver 26 of Fig. 1) for receiving the transmitted microphone signal from transmitter 54.

Regarding Claim 9, Wang further discloses the signal transmitting arrangement comprises a cable electrically connecting said microphone and said reception unit (wires 66).

Regarding Claim 10, Wang further discloses said signal transmitting arrangement comprises a wireless transmitter (54) electrically connected to said microphone and located at said fabric garment, and a wireless receiver located at a reception unit for receiving signals from said wireless transmitter (remote transceiver 26 of Fig. 1 for receiving the transmitted microphone signal from transmitter 54).

6. Claims 11, 13 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Ballantine, Otero, and Wang as applied to claim 8 above, and further in view of Murphy et al. (Hereinafter "Murphy") (US Patent 5,544,654).

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Regarding Claims 11 and 13, the combinations of Ballantine, Otero and Wang does not disclose controlling a medical-technical device by a voice signal. Murphy discloses voice control of a medical-technical device by using voice control (Fig. 10) in order to avoid the use of a keyboard or a footswitch. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include voice control of a medical-technical device for the microphone surgical mask device of Ballantine, Otero and Wang, in order to provide voice control for operating the medical-technical device while allowing full use of hands to perform a procedure at the same time.

For what's called for in claim 16, see Fig. 3 and col. 1, lines 39-42 of Ballantine.

Regarding Claim 17, Wang further discloses electrically connecting a contact to said microphone and making said contact accessible at an exterior surface of said fabric garment (wires 66), connecting a mating contact at a first end of an electrical cable to said contact (end or wires 66), and connecting an opposite end of said cable to said reception unit, and transmitting said signals via said cable to said reception unit (wires 66).

Regarding Claim 18, Wang further discloses disposing said microphone in said pocket in an interior of said fabric garment, and wherein the step of transmitting said signals comprises providing an electrical cable (66) in electrical connection with said microphone and guiding said cable through an opening in said fabric garment from the interior of said fabric garment to an exterior of said garment (Col. 7, lines 5-14), and

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connecting an opposite end of said cable to said reception unit (receiver 64 and transmitter 54).

Regarding Claim 19, Wang further discloses providing a wireless transmitter in electrical connection with said microphone (54), providing a wireless receiver at said reception unit for receiving signals from said wireless transmitter (remote transceiver 26 of Fig. 1 for receiving the transmitted microphone signal from transmitter 54) and wirelessly transmitting said signals produced by said microphone from said transmitter 54 to said receiver 26.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Ballantine, Otero and Wang as applied to claim 8 above, and further in view of Ingalls (US-4,607,383).

Regarding claim 12, the combinations of Ballantine, Otero and Wang does not disclose that the microphone surgical mask including an electrical filter circuit for suppressing disturbing signals. However, electrical filter circuit for suppressing disturbing signal (noise) is old and well know in the art, and Ingalls discloses a neckband microphone having and electrical filter circuit (Fig. 8) for suppressing disturbing signal (noise), see col. 4, line 67-col. 5, line 46. It would have been obvious to one of ordinary skill in the art to modify the microphone surgical mask of Ballantine, Otero and Wang with a electrical filter circuit for suppressing disturbing noise signal as taught by Ingalls in order to suppress the unwanted noise signal to produce a more intelligible voice signal receive by microphone.

8. Claim 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantine/Otero/Wang/Murphy as applied to claim 13 above in further view of Ingalls (US Patent 4,607,383).

Regarding claim 20, the combinations of Ballantine, Otero, Wang and Murphy does not disclose that the microphone surgical mask including an electrical filter circuit for suppressing disturbing signals. However, electrical filter circuit for suppressing disturbing signal (noise) is old and well know in the art, and Ingalls discloses a neckband microphone having and electrical filter circuit (Fig. 8) for suppressing disturbing signal (noise), see col. 4, line 67-col. 5, line 46. It would have been obvious to one of ordinary skill in the art to modify the microphone surgical mask of Ballantine, Otero, Wang and Murphy with a electrical filter circuit for suppressing disturbing noise signal as taught by Ingalls in order to suppress the unwanted noise signal to produce a more intelligible voice signal receive by microphone.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on maxi flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Xu Mei
Primary Examiner
Art Unit 2615
04/12/2007